Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-854

PROVIDENCE HOSPITAL,
Petitioner,

versus

MANHATTAN CONSTRUCTION COMPANY OF TEXAS, E. C. ERNST, INC., CHARLES H. McCAULEY ASSOCIATES, INC., AND FAIRBANKS MORSE, INC.,
Respondents.

BRIEF OF FAIRBANKS MORSE, INC., OPPOSING PETITION FOR CERTIORARI

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Fairbanks Morse, Inc.

January 18, 1978

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The issues raised in the petition for certiorari do not directly concern Fairbanks Morse, Inc. (Fairbanks). However, Fairbanks opposes the petition because the issues are manifestly not worthy of certiorari and because the interests of justice require that the case move forward promptly in the district court on remand.

The briefs of other parties will discuss why the case is not worthy of certiorari. Language from the

decisions of the court of appeals makes argument almost unnecessary.

The interests of justice will best be served if the remaining issues, as designated by the court of appeals, are dealt with by the district court on remand. This case involves five parties and many issues — many more than those raised in the petition for certiorari. The district court has indicated that the remaining issues should be considered as soon as it would be appropriate and judicious to do so. A schedule for briefing and hearing has already been established. Fairbanks shares the district court's desire to see this complex case brought to a conclusion as soon as possible. Since the issues raised in the petition for certiorari would bear upon a claim to be considered by the district court on remand, granting certiorari would further slow the progress of this case.

For these reasons the petition for certiorari should be denied.

Respectfully submitted,

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PROOF OF SERVICE

I, Louis E. Braswell, the attorney for Fairbanks Morse, Inc., and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 10th day of January, 1978, I served copies of the foregoing Brief on the several parties by mailing copies in duly addressed envelopes, with first class postage prepaid, to their respective attorneys of record as follows:

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